

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

PERRY O. MACKALL,

Plaintiff,

v.

MIKE J. COX, et al.,

Defendants.

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CASE NO. 05-71496

HON. MARIANNE O. BATTANI

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff filed this prisoner civil rights suit against thirty officials employed by the Michigan Department of Corrections over a dispute about the type of pain medication he received and treatment for allergies and asthma. Defendants filed a Motion to Dismiss pursuant to the three strikes provision of 28 U.S.C. § 1915(g).

Pursuant to 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Donald A. Scheer for all pretrial proceedings. Magistrate Judge Scheer issued a Report and Recommendation, dated July 15, 2005, in which he recommended dismissing the Complaint and revoking Plaintiff's *in forma pauperis* status.

The Court has reviewed the Report and Recommendation and finds the facts and law support the recommendation of dismissal. In addition, notification was given to both parties that objections thereto had to be filed within ten (10) days of service of a copy, and none has been filed within the time frame allowed by 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d). Therefore, the Court ADOPTS the Report and Recommendation.

Accordingly, Plaintiff's complaint is DISMISSED in its entirety, and Plaintiff's *in forma pauperis* status is REVOKED. Plaintiff is free to pursue his claims, provided he pays the \$225.00 filing fee, less the initial partial payment and any other amounts paid to the Court for this case, within 30 days. Plaintiff is advised that if he proceeds, his complaint will be reviewed in accordance with 28 U.S.C. § 1915A(b), which requires dismissal of a complaint brought against governmental entities, officers and employees when the complaint is "frivolous, malicious, or fails to state a claim upon which relief may be granted."

IT IS SO ORDERED.

s/Marianne O. Battani  
MARIANNE O. BATTANI  
UNITED STATES DISTRICT JUDGE

DATED: August 19, 2005

#### CERTIFICATE OF SERVICE

Copies of this Order were served upon Perry MacKall and Diane M. Smith on this date by ordinary mail and electronic filing.

s/Bernadette M. Thebolt  
Deputy Clerk